



- **Require each local labor organization that directly represents casino gaming employees to register with the Board biennially, instead of annually.**
- **Delete a provision requiring wagers to be received only from a person present in a licensed casino.**
- **Specify that a player's mobile or other personal device would not be considered an electronic funds transfer terminal.**
- **Eliminate the requirement that an authorized casino licensee display and allow wagering on simulcast horse races only at the licensee's casino.**
- **Specify that, if internet sports betting or other forms of internet gaming were authorized and regulated by other Michigan laws, any taxes, payments, and fees relating to such internet wagers would be subject to those laws.**
- **Specify that, if a casino licensee provided a wagerer with a device to conduct internet gaming while at the casino, the 19% wagering tax otherwise provided in the Act would be imposed on the adjusted gross receipts received by the casino licensee from the wagerer's internet gaming on the device.**
- **Impose a wagering tax of 8.75% on the adjusted gross receipts received by a casino licensee from sports betting conducted under the Act.**
- **Require an audit conducted by a casino licensee to be transmitted to the Board 90 days after the end of each fiscal year, instead of 30 days after the end of each quarter of each fiscal year.**
- **Allow a casino licensee to market or advertise its services, other than by direct mail, for the casino licensee's nongaming amenities, such as hotels, restaurants, and event centers.**

The bill also would repeal Sections 7b, 8a, and 10 of the Act. (Section 7b prohibits certain individuals who have an interest in a casino licensee or casino enterprise from making a contribution to a candidate or committee through certain legal entities. Section 8a requires a casino licensee to post a \$1.0 million bond to the State before the license may be issued. Section 10 specifies that alcoholic beverages may only be sold or distributed in a casino under the Michigan Liquor Control Act.)

#### Definitions

Currently, "affiliate" means a person who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or co-partner in a limited liability partnership with a person who holds or applies for a casino license under the Michigan Gaming Control and Revenue Act. Under the bill, the term would mean a person who, directly or indirectly, through one or more intermediaries, controls a casino licensee under the Act.

The Act defines "affiliated company" as any form of business organization that controls, is controlled by or is under common control with; is in a partnership or joint venture relationship with; or is a co-shareholder of a corporation, a co-member of a limited liability company, or co-partner in a limited liability partnership with a person who holds or applies for a casino license under the Act. Under the bill, the term would mean any form of business organization that controls a casino licensee under the Act.

Under the Act, the term "applicant" means any person who applies for a license for registration under the Act. The term includes an affiliate, affiliated company, officer, director, or managerial employee of the applicant, or a person who holds greater than 1% direct or indirect interest in the applicant. Affiliate and affiliated company do not include a partnership, a joint venture relationship, a co-shareholder of a corporation, a co-member of a limited liability company, or a co-partner in a limited liability partnership that has less than 1% direct

interest in the applicant and is not involved in the casino or casino enterprise application as defined in rules promulgated by the Michigan Gaming Control Board. Under the bill, the term, no longer would include an officer, would specify that the managerial employee of the applicant would have to be a person who performed the function of principal executive officer, principal operations officer, or principal accounting officer, and would increase, from 1% to 5%, the amount of direct investment described in the term.

Under the Act, "junket enterprise" means any person other than a casino licensee or applicant who employs or otherwise engages in the procurement or referral of people who may participate in a junket to a casino licensed under the Act or casino enterprise whether those activities occur within the State. The bill would delete the term.

The Act defines "occupational license" as a license issued by the Board to a person to perform an occupation in a casino or casino enterprise which the Board has identified as requiring a license to engage in casino gaming in Michigan. Under the bill, the term would mean a license issued by the Board to a person to perform in a casino or a casino enterprise an occupation that directly impacts the integrity of gaming and that the Board has identified as requiring a license to perform the occupation in a casino or casino enterprise in Michigan.

The Act defines "supplier" as a person who the Board has identified under its rules as requiring a license to provide casino licensees or casino enterprises with goods or services regarding the realty, construction, maintenance, or business of a proposed or existing casino, casino enterprise, or related facility on a regular or continuing basis, including junket enterprises, security businesses, manufacturers, distributors, people who service gaming devices or equipment, garbage haulers, maintenance companies, food purveyors, and construction companies. Under the bill, the term would mean a person who the Board has identified under its rules as requiring a license to provide casino licensees with goods or services regarding the business of a proposed or existing casino, or casino enterprise on a regular or continuing basis.

#### Michigan Gaming Control Board

Under the Act, the Board is granted the powers and duties to execute and administer the Act for the purposes of licensing, regulating, and enforcing the system of casino gambling established under the Act. The Board consists of five members, not more than three of whom may be members of the same political party, to be appointed by the Governor with the advice and consent of the Senate. One person must be designated chairperson by the Governor. Each member of the Board must be a Michigan resident. Members must be appointed for terms of four years.

Each member must be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties. Under the bill, beginning January 1, 2023, each member would have to receive compensation of \$1,000 for each public board meeting that he or she attended. Beginning on that same date, the chairperson would have to receive \$1,250 for each public Board meeting he or she attended.

Currently, the Governor may not appoint a person to the Board and the Board may not employ a person if certain circumstances exist, including if, during the three years immediately preceding appointment or employment, the person held any direct or indirect interest in, or any employment by, a person who is licensed to operate a casino under the Act or in another jurisdiction, a person who had an application to operate a casino pending before the Board or any other jurisdiction, or a casino enterprise. The bill would revise this prohibition to cover the previous year preceding appointment or employment, instead of the previous three years.

Currently, a member, Executive Director, or Board employee may not hold any direct or indirect interest in, be employed by, or enter into a contract for services with an applicant, a person licensed by or registered with the Board, or a casino enterprise for a period of four years after the date his or her membership of the Board terminates. Under the bill, a member, Executive Director, or Board employee could not hold any direct or indirect interest in, be employed by, or enter into a contract for services with a casino licensee for a period of two years after the date his or her office or employment terminated.

Under the Act, a business entity in which a former Board member or employee or agent has an interest, or any partner, officer, or employee of the business entity may not make any appearance or representation that is prohibited to that former member, employee, or agent ("business entity" means a corporation, limited liability company, partnership, limited liability partnership, association, trust, or other form of legal entity). The bill would delete this provision.

The Act lists the Board's duties, which include holding at least one public meeting each quarter of the fiscal year. In addition, the chairperson or any two Board members may call special meetings upon 72 hours' written notice to each member. Three members of the Board constitute a quorum, except when making determinations on applications for casino licenses, in which case four members constitute a quorum. The bill would delete the requirement for four members to constitute a quorum when making determinations on applications for casino licenses.

The Act lists specific powers the Board has to execute the Act, including having the authority to require that each casino licensee involved in the ownership or management of gambling operations submit to the Board an annual balance sheet, profit and loss statement, and a list of the stockholders or other people having a 1% or greater beneficial interest in the gambling activities of the licensee in addition to any other information the Board considers necessary in order to effectively administer the Act and all rules promulgated by the Board and orders and final decisions made under the Act. The bill would increase, from 1% to 5%, the beneficial interest threshold listed in the above provision.

The Act also provides the Board the authority to revoke or suspend a casino license or impose any other disciplinary action if the casino licensee has violated the Michigan Liquor Control Act or rules promulgated under that Act. The bill would delete this provision.

The bill would allow the Board to enter into agreements with other jurisdictions to facilitate, administer, and regulate multijurisdictional gaming by casino licensees if the gaming under the agreement were conducted only in the United States.

#### Freedom of Information Act; Exemptions

Currently, all information, records, interviews, reports, statements, memoranda, or other data supplied to or used by the Board are subject to the Freedom of Information Act, except for certain information listed under the Act, including all the information, records, interviews, reports, statements, memoranda, or other data supplied to, created by, or used by the Board related to background investigations of applicants or licensees and to trade secrets, internal controls, and security measures of the licensees or applicants. The bill also would include in this provision correspondence and documents used by the Board related to background investigations of applicants or other information involving nonpublic financial data, surveillance footage, or surveillance measures, or any other information that the applicant, licensee, or Board designated as confidential. (The bill would make similar changes to a provision concerning information, records, interviews, reports, statements, memoranda, or

other data provided in a response to a request for proposals for development agreements issued by a city and all draft develop agreements being negotiated by the city.)

In addition, any information that would disclose employment schedules, travel schedules, vehicle information, or other information that could endanger the physical safety of Board employees, or investigation information, would not be subject to the Freedom of Information Act.

### Information Requests

The Act requires the Board, on written request from any person, to provide certain information concerning an applicant or licensee, his or her products, services or gambling enterprises, and his or her business holdings if the Board has the information in its possession. This information includes the following:

- An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant or licensee or an applicant's or licensee's spouse, parent, or child has equity interest of more than 5%.
- Whether an applicant or licensee has bene indicted, convicted, pleaded guilty or nolo contendere, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, including the name and location of the court, the date, and disposition of the offense.
- Whether an applicant or licensee has had any license or certification issued by a licensing authority in Michigan or any other jurisdiction denies, restricted, suspended, revoked, or not renewed and, if known by the Board, a statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation, or nonrenewal, including the name of the licensing authority, the date each action was taken, and the reason for each action.
- Whether an applicant or licensee has ever filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt, including the date of filing, the name and location of the court, the case, and number of the disposition.
- Whether an applicant or licensee has filed, or been served with, a complaint or other notice filed with any public body regarding the delinquent payment of any tax required under Federal, State, or local law, including the amount of the tax, type of tax, the taxing agency, and time periods involved.
- A statement listing the names and titles of all public officials or officers of any city, State, or Federal body, agency, or entity and relatives of the officials who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of, or hold or have any other interest in, or any contractual or service relationship with, an applicant or licensee under the Act.
- Whether an applicant or licensee or the spouse, parent, child, or spouse of a child of an applicant or licensee has made, directly or indirectly, any political contributions, or any loans, gifts, or other payments to any candidate as defined in Section 7b of the Act or officeholder elected in Michigan, within five years before the date of filing the application, including the amount and the method of payment or to a committee established under the Michigan Campaign Finance Act.

The bill would delete these provisions.

(The bill also would delete similar provisions found in a requirement for a city to provide similar information upon request concerning a response to a request for proposals for development agreements.)

### Financial Interest Divestment/Termination

The Michigan Gaming Control and Revenue Act specifies that a violation of certain listed provisions by an employee or agent of the Board will not result in termination of employment if the Board determines that the conduct involved does not violate the purpose of the Act, or require other disciplinary action, including termination of employment. However, employment will be terminated if a financial interest in a licensee or an applicant, or affiliate or representative of a licensee or applicant, is acquired by an employee or agent that has been offered employment with the Board, an employee of the Board, or the employee's or agent's spouse, parent, or child, through no intentional action of the employee or agent, and the individual does not divest or terminate the financial interest after 30 days. The bill would delete reference to a financial interest acquired by an employee's or agent's spouse, parent, or child.

### Casino License Application

The Act permits a person to apply to the Board for a casino license to conduct a gambling operation. The application must be made under oath on forms provided by the Board and must contain information prescribed by the Board, including the identity of every person having greater than 1% direct or indirect pecuniary interest in the applicant with respect to which the license is sought. The bill would increase, from 1% to 5%, the direct or indirect pecuniary interest threshold listed above.

The Act also requires the application to include the following:

- A statement listing the names and titles of all public officials or officers of any unit of government, and the spouses, parents, and children of those public officials or officers who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with, an applicant.
- Whether an applicant or the spouse, parent, child, or spouse of a child of an applicant has made, directly or indirectly, any political contribution, or any loans, donations, or other payments to any candidates as defined in Section 7b of the Act or officeholder elected in Michigan or to a committee established under the Michigan Campaign Finance Act within five years from the date of the filing of the application, including the identity of the Board member, candidate, or officeholder, the date, the amount, and the method of payment.

The bill no longer would require this information to be included in an application.

The Michigan Gaming Control and Revenue Act requires each applicant to submit with its application, on forms provided by the Board, a photograph and two sets of fingerprints for each person having a greater than 1% direct or indirect pecuniary interest in the casino, and each person who is an officer, director, or managerial employee of the applicant. The bill, instead would require the applicant to provide a photograph and two sets of fingerprints for each person having a greater than 5% direct or indirect pecuniary interest in the casino, and a photograph and fingerprints for each person who was a director or a managerial employee of the applicant who performed the function of principal executive officer, principal operation officer, or principal accounting officer.

### Casino License Ineligibility

Under the Act, an applicant for a casino license is ineligible if certain circumstances exist, including either of the following:

- The applicant has been convicted of a felony under the laws of Michigan, any other state, or the United States.
- The applicant has been convicted of a misdemeanor involving gambling, theft, dishonesty, or fraud in any state or a local ordinance in any state that substantially corresponds to a misdemeanor in that state.

Under the bill, the Board could waive these requirements if the conviction occurred more than 10 years (for a felony) or five years (for a misdemeanor) before the applicant applied for a license and the Board was convinced of both of the following:

- That the applicant did not pose a threat to the integrity of gaming.
- That the applicant otherwise met other application requirements.

The Act also specifies that an applicant for a casino license is ineligible if the applicant holds an elective office of a governmental unit in Michigan, another state, or the Federal government, or is a member of or employed by a gaming regulatory body of a governmental unit in Michigan, another state, or the Federal government, or is employed by a Michigan governmental unit. Under the bill, the applicant would be ineligible if he or she held an elective office in the city or county where the casino was located, State elective office, or Federal elective office, or was employed by a city or county where the casino was located or by a gaming regulatory body of a governmental unit in Michigan, another state, or the Federal government. ("State elective office" would mean that term as defined in Section 12 of the Michigan Campaign Finance Act: a statewide elective office or the office of State legislator.)

The bill also would make similar amendments to disqualifying provisions for a supplier's license and an occupational license.

#### Surety Bond

The Act lists what the Board must consider when determining whether to grant a casino license to an applicant. This list includes the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond. The bill would eliminate the requirement to provide an adequate surety bond.

#### Institutional Investor Waiver; Publicly Traded Securities

Under the Act, unless the Board determines that an institutional investor is unqualified, an institutional investor holding either under 10% of the equity securities or debt securities of a casino licensee's affiliate or affiliated company that is related in any way to the financing of the casino licensee, if the securities represent a percentage of the outstanding debt of the affiliate or affiliated company not exceeding 20%, or a percentage of any issue of the outstanding debt of the affiliate or affiliated company not exceeding 50%, must be granted a waiver of certain eligibility and suitability requirements if the securities are those of a publicly traded corporation and its holding of those securities were purchased for investment purposes only and, if requested by the Board, the investor files with it a certified statement that the investor has no intention of influencing or affecting the affairs of the issuer, the casino licensee, or its affiliate or affiliated company. The bill would remove the restriction that the securities must be those of a publicly traded corporation.

#### Supplier's License

The Act authorizes the Board to issue a supplier's license to a person who applies for it and pays a nonrefundable application fee, if the Board determines that the applicant is eligible and suitable for the license and it pays a \$5,000 annual license fee.

All applications must be made under oath. The bill would require all applications of a director or managerial employee of the applicant who performs the function of principal executive officer, principal operations officer, or principal accounting officer to be made under oath, instead.

The Act specifies that an applicant for a supplier's license is ineligible to receive that license if certain circumstances exist, including if the applicant owns more than a 10% ownership interest in any entity holding a casino license. The bill would delete this provision. The bill also would delete a similar provision pertaining to an applicant for an occupational license.

#### Supplier; Quarterly Return

The Act requires a supplier to keep books and records of its business activities with a casino operator, including its furnishing of equipment, devices, supplies, and services to gambling operations separate and distinct from any other business that the supplier might operate.

A supplier must file a quarterly return with the Board listing all sales, leases, and services. The bill would delete this requirement.

#### Local Labor Organization; Requirement to Register

Under the Act, each local labor organization that directly represents casino gaming employees must register with the Board annually and provide certain information. The bill would require a local labor organization to register with the Board biennially, instead.

#### Wagers

The Act specifies that wagers may be received only from a person present in a licensed casino. The bill would delete this provision.

Under the Act, all tokens, chips, or electronic cards used to make wagers must be purchased from a licensee. The tokens, chips, or electronic cards may be purchased by means of an agreement under which the owner extends credit to the patron. These tokens, chips, or electronic cards may be used only while in a casino and only for making wagers on gambling games. The bill would delete references to tokens, and remove the restriction that chips or electronic cards only be used while in a casino.

#### Electronic Funds Transfer Terminal

Under the Act, a person who holds a casino license may not install, own, or operate or allow another person to install, own, or operate an electronic funds transfer terminal on the premises of the casino that is less than 50 feet from any game in the casino.

As used above, "electronic funds transfer terminal" means an information processing device used for executing deposit account transactions between financial institutions and their customers by either the direct transmission of electronic impulses or the recording of electronic impulses for delayed processing. The fact that a device is used for other purposes does not prevent it from being an electronic funds transfer terminal. The bill specifies that a player's mobile or other personal device would not be considered an electronic funds transfer terminal.



### Horse Races

The Act specifies that, if the Lottery Act is amended to allow the operation of video lottery at horse racetracks in Michigan, and if video lottery is being conducted at horse racetracks in Michigan, a casino licensee may, after obtaining approval from the Board, apply to the Racing Commissioner for authorization to simulcast horse races under the Horse Racing Law.

A casino licensee that is authorized under this provision must display and allow wagering on simulcast horse races only at the licensee's casino and must comply with all applicable provisions of the Law, rules promulgated under it, and the written permit to conduct simulcasting any related order issued to the casino licensee by the Racing Commissioner. The bill would eliminate the requirement that a casino licensee that was authorized display and allow wagering on simulcast horse races only at its casino.

### Internet Gaming

Under the bill, if internet sports betting or other forms of internet gaming were authorized and regulated by other Michigan laws, any taxes, payments, and fees relating to internet wagers received by a casino licensee and internet gaming would be subject to those other laws and no other tax, payment, or fee could be imposed by agreement or otherwise on a casino licensee by the State or a political subdivision of the State for internet wagers received by the casino licensee or internet gaming. This provision would not impair the contractual rights under an existing development agreement between a city and a casino licensee.

If a casino licensee provided a wagerer with a device to conduct internet gaming while at the casino, the 19% wagering tax otherwise provided in the Michigan Gaming Control and Revenue Act would be imposed on the adjusted gross receipts received by the casino licensee from the wagerer's internet gaming on the device. This requirement would not apply to sports betting.

### Sports Betting Tax

Except as otherwise provided, and instead of the taxes and fees otherwise imposed under the Michigan Gaming Control and Revenue Act, a wagering tax of 8.75% would be imposed on the adjusted gross receipts received by a casino licensee from sports betting conducted under the Act, and no other tax, payment, or fee could be imposed by agreement or otherwise on a casino licensee by the State or a political subdivision of the State for sports betting. Wagering taxes would have to be allocated as currently provided in the Act. This would not impair the contractual rights under an existing development agreement between a city and a casino licensee.

### Licensee Audit

Under the Act, within 30 days after the end of each quarter of each fiscal year each casino licensee must transmit to the Board and to the city in which the licensee's casino is located an audit of the financial condition of the licensee's total operations. The bill would require the audit to occur 90 days after the end of each fiscal year, instead.

### Additional Provisions

Under the Act, a casino licensee may not extend credit, offer check cashing privileges, or offer coupons to, or market its services, or send advertisements to, or otherwise solicit the patronage of, those people whose names are on the list of disassociated people. Under the

bill, a casino licensee could market or advertise its services, other than by direct mail, for the casino licensee's nongaming amenities, such as hotels, restaurants, and event centers.

The Act requires a casino licensee to keep a computer record of each individual whose name is on the list of disassociated people. If a casino licensee identifies a person whose name is on the list on the premises of a casino, the licensee must immediately notify the Board, a representative of the Board, or a representative of the Department of State Police who is on the premises of the casino.

After the licensee confirms that the individual has filed an affidavit, the licensee must do the following:

- Immediately remove the individual from the casino premises.
- Report the incident to the prosecutor for the county in which the casino is located.

The bill would delete this requirement.

MCL 432.202 et al.

Legislative Analyst: Drew Krogulecki

### **FISCAL IMPACT**

The bill would have a negative fiscal impact on the Michigan Gaming Control Board (MGCB) by an unknown amount. The bill would include compensation to Board members for attending meetings in addition to covering necessary expenses incurred in execution of their official duties. This would total an additional \$5,250 for each Board meeting that was conducted with all Board members attending. The Board typically meets at least six times per calendar year, which means at least \$31,500 in additional annual expenses if all members attended six meetings.

The bill could allow fewer supplier licenses be issued on nongaming suppliers, such as garbage haulers, maintenance, and food. In fiscal year (FY) 2017-18, the MGCB generated \$510,000 from supplier license fees, which was the largest fee type generated. Similarly, fewer applications could be required, which would lead to less corresponding revenue generated in application fees.

The bill removes disciplinary action on casinos that violate the Michigan Liquor Control Act. In FY 2017-18, the board generated \$91,000 on fines imposed on casinos and suppliers. Of the total fines issued in 2018, casinos were not charged a fine for a violation of the Michigan Liquor Control Act; however, casinos have been issued fines and citations for allowing minors to enter, which may increase the likelihood of a violation of the Michigan Liquor Control Act.

The bill would allow the Board to enter into agreements with other jurisdictions to facilitate, administer, and regulate multijurisdictional gaming within the United States, which could increase the MGCB's administrative costs. The total increase is unknown and would depend on the amount of resources necessary to enter into and provide oversight required by the Board on any new multijurisdictional gaming agreement.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.